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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 KFX MEDICAL CORPORATION, a
12 Delaware corporation,

Plaintiff,

13 vs.

14 ARTHREX INCORPORATED, a Delaware
15 corporation,

Defendant.

16
17 AND RELATED COUNTERCLAIM.
18

CASE NO. 11cv1698 DMS (BLM)

ORDER RE: TRIAL

19 On July 19, 2013, this matter came on regularly for a pretrial conference. Joseph Jennings,
20 Brain Horne and Sean Murray appeared for KFx, and Robert Dickerson, Charles Saber and Salvatore
21 Tamburo appeared for Arthrex. After consulting with counsel, and for good cause appearing, **IT IS**

22 **HEREBY ORDERED:**

23 1. **Trial Date.** A jury trial in this action shall commence on **August 19, 2013**, at **9:00**
24 **a.m.**, in Courtroom 13A.

25 2. **Time Limits.** To promote the efficient administration of justice, provide for an orderly
26 presentation of the evidence, and accommodate the parties' time estimates and Court's schedule, the
27 Court orders reasonable time limits of fifteen (15) hours per side. In making these time limits, the
28 Court is familiar with the issues in the case and the parties' estimates for trial. The time limits are all-

1 inclusive and encompass all phases of the trial, including jury selection, opening statements,
2 presentation of evidence, side-bar and jury instruction conferences, and closing argument. The time
3 limits are subject to revision for good cause shown, but the parties should exercise diligence in
4 efficiently presenting the case. The Courtroom Deputy Clerk will provide a summary of the time used
5 at the conclusion of each trial day.

6 3. **Motions *In Limine*.** The parties shall file and serve their motions *in limine* on or
7 before **July 26, 2013**. Each side shall be limited to five (5) motions, and each motion shall be no more
8 than five (5) pages. The parties are admonished, however, to meet and confer to try and resolve their
9 disputes before filing motions *in limine*. Oppositions to motions *in limine* shall be filed on or before
10 **August 2, 2013**. A hearing on the parties' motions *in limine* shall be held on **August 9, 2013**, at **1:30**
11 **p.m.** The issue of correction of inventorship shall be briefed on the same schedule as the motions *in*
12 *limine*, and shall be heard with those motions.

13 4. **Jury Instructions.** On or before **August 12, 2013**, jury instructions must be submitted
14 to the Court in the following format:

15 a. The parties are required **jointly** to submit one set of agreed upon instructions.
16 To this end, the parties are required to serve their proposed instructions upon each other at least ten
17 days before August 12, 2013. The parties then should meet, confer, and submit to the Court one
18 complete set of agreed upon instructions. The Court prefers to use standard pattern instructions, such
19 as the Ninth Circuit Model Jury Instructions, Civil, the Judicial Council of California Civil Jury
20 Instructions, or other pattern instructions from other states, if applicable.

21 b. If the parties cannot agree upon one complete set of instructions, they are
22 required to submit one set of instructions to which they have agreed, and two sets (one for each party)
23 of supplemental instructions to which they have not agreed.

24 c. The joint instructions and supplemental instructions must be presented to the
25 Court on August 12, 2013, along with any objections to the supplemental instructions. All objections
26 shall be in writing, set forth the challenged jury instruction in its entirety, identify the objectionable
27 language, and contain citation to authority explaining why the instruction is improper. Where
28 applicable, the objecting party shall submit an alternative instruction.

1 d. The parties are required to submit the proposed joint set of instructions and
2 proposed supplemental instructions in the following format:

- 3 i. Two copies of each instruction should be provided.
- 4 ii. The first copy should indicate the number of the proposed instruction,
5 the instruction, and the authority supporting the instruction.
- 6 iii. The second copy should contain **only** the proposed instructions on plain
7 paper, that is, not on pleading paper. No other marks or writings should be present. This copy also
8 should be presented on a CD in WordPerfect format (any version).

9 e. All instructions should be short, concise, and neutral statements of law. Avoid
10 argumentative instructions as they will not be given.

11 f. Any modification to a standard instruction must be identified by specifying the
12 modification to the original instruction and the authority supporting the modification.

13 5. **Voir Dire.** The parties shall submit proposed voir dire questions on or before **August**
14 **12, 2013**. The Court will conduct the initial voir dire of the panel. In addition, the Court will allow
15 each party fifteen (15) minutes for attorney voir dire.

16 6. **Joint Statement, Witness and Exhibit Lists.** On or before **August 12, 2013**, the
17 parties shall submit a final list of witnesses and exhibits and a joint description of the case to be read
18 to the jury. The parties shall submit an extra copy of the witness and exhibit lists for the court
19 reporter.

20 7. **Trial Briefs.** On or before **August 12, 2013**, the parties shall file and serve on each
21 other a trial brief that summarizes their theories of the case and what they expect the evidence to show.

22 8. **Electronic Equipment.** The parties must notify the Court in writing of any electronic
23 equipment they seek to use during the trial, and contact at least one week before trial the Courtroom
24 Deputy Clerk to arrange a time and date to set up any electronic equipment.

25 9. **Trial Procedures – Jury Selection.** The Court’s Civil Pretrial and Trial Procedures,

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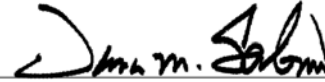
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2 including jury selection practices, are attached. The parties also may view these procedures on the
3 Court's website at www.casd.uscourts.gov. (See "Rules," then click on "Chamber's Rules").

4 **IT IS SO ORDERED.**

5 DATED: July 19, 2013



HON. DANA M. SABRAW
United States District Judge